

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALLAH,	)	
	)	
Petitioner,	)	CASE NO. C06-1334-MJP-MJB
	)	
v.	)	
	)	
DOUG WADDINGTON,	)	REPORT AND RECOMMENDATION
	)	
Respondent.	)	
	)	

This is a federal habeas action which was initiated by petitioner in September 2006 with the filing of a petition for writ of habeas corpus. (*See* Dkt. No. 1.) Petitioner asserted in his petition that he was being unlawfully held under a King County Superior Court cause number which was dismissed in September 2001. (*See* Dkt. No. 7.) Petitioner contended that the record in question had been sealed and the he had been denied the docket and transcript in that action. (*Id.*) He further contended that he had been denied records regarding search warrants which he believed to be invalid. (*Id.*)

After reviewing petitioner's petition, and his supporting documents, this Court concluded that petitioner's claims provided no clear basis for federal habeas relief as they appeared directed at

1 obtaining records from his state court criminal proceedings and not at obtaining relief from his  
2 current confinement. Accordingly, on October 25, 2006, this Court issued an Order declining to  
3 serve petitioner's petition or to direct that an answer be filed. (Dkt. No. 8.) In that Order, the  
4 Court advised petitioner that if his intent was to seek relief from his current confinement, he must  
5 clearly identify the federal constitutional grounds which entitled him to such relief, and he must  
6 demonstrate that any such grounds had been properly exhausted in the state courts. (*Id.*)

7 On November 8, 2006, petitioner filed an amended petition for writ of habeas corpus. (Dkt.  
8 No. 9.) In that petition, petitioner asserts that he is not challenging any judgment of conviction and  
9 that he was convicted of no crime. These assertions appear to be based upon petitioner's belief that  
10 he is currently serving a sentence for a case which was dismissed. The documents which petitioner  
11 provides in support of his petition clearly refute that notion.

12 Moreover, the claims which petitioner raises specifically challenge only a search warrant  
13 issued by the King County Superior Court and executed by a City of Seattle Police Detective.  
14 While it appears from the record that petitioner presented some form of Fourth Amendment  
15 challenge to the Washington Court of Appeals, it is not clear that petitioner presented the precise  
16 claims to that court as are presented here, nor is there any indication that petitioner sought review  
17 of any of his Fourth Amendment claims in the Washington Supreme Court.<sup>1</sup>

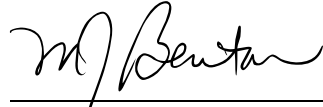
18 Because petitioner's assertion that he is currently serving a sentence for a case which was  
19 dismissed is clearly without merit, and because petitioner fails to demonstrate that any of his  
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21 <sup>1</sup> The Court further notes that Fourth Amendment claims are not cognizable in a federal  
22 habeas proceeding if a petitioner has had a full and fair opportunity to litigate the claims in state  
23 court. *Stone v. Powell*, 428 U.S. 465, 481-82 (1976). The relevant inquiry is whether the petitioner  
24 was afforded a full and fair hearing, not whether the state court reached a correct resolution. *See*  
25 *Siripongs v. Calderon*, 35 F.3d 1308, 1321 (9th Cir. 1994)(defendant had a full and fair opportunity  
where he made his Fourth Amendment argument in both state trial and appellate courts), *cert. denied*,  
115 S.Ct. 1175 (1995). Nothing in the record suggests that petitioner was denied the opportunity to  
litigate his Fourth Amendment claims in the state courts.

1 intended claims have been properly exhausted in the state courts, this Court recommends that  
2 petitioner's amended federal habeas petition and this action be dismissed without prejudice. A  
3 proposed order accompanies this Report and Recommendation.

4 DATED this 22<sup>nd</sup> day of January, 2007.

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6 MONICA J. BENTON  
7 United States Magistrate Judge  
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